

Introducing the Federal Emergency Management Agency Restoration Act

THE HON. JAMES L. OBERSTAR
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
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Mr. Speaker, today I, together with Subcommittee Ranking Democratic Member Norton, and 30 other Democratic Members of the Transportation and Infrastructure Committee (the Committee), have introduced the “Federal Emergency Management Agency Restoration Act of 2005”. This bill will reestablish the Federal Emergency Management Agency (FEMA) as an independent, cabinet-level agency. It will further strengthen the agency by ensuring that the FEMA Director is chosen from among qualified candidates who have extensive experience in the areas of emergency preparedness, response, recovery, and mitigation for all hazards. This bill will begin the process of restoring FEMA to a level of competence that the American people expect and deserve.

Moving FEMA into the Department of Homeland Security (DHS) was the wrong thing to do. It trapped the agency – an agency that needs to be nimble and be able to marshal resources quickly – in a bureaucratic morass. During its time in DHS, FEMA has been partially dismantled, been bled of necessary resources, been unable to fill key management positions on a permanent basis, been unable to make timely decisions to deal with emergencies, and has been forced to focus on terrorism at the expense of natural disasters. FEMA’s response to the natural disaster of Hurricane Katrina was itself a disaster.

Although I am saddened by FEMA's current troubles, I am not surprised. Three years ago, during consideration of H.R. 5005, the Homeland Security Act of 2002, I offered an amendment to keep FEMA independent from the Department of Homeland Security. I, along with many other Democrats, feared that including FEMA in the new Department would undermine its effectiveness by diverting resources away from its traditional mission of preparing for and responding to natural disasters, thereby leaving the federal government unprepared to respond to a disaster like Hurricane Katrina.

Further in testimony before the Select Committee on Homeland Security in July 2002, in response to a question by Select Committee Member Congresswoman DeLauro, I set forth what I believed to be the dangers of moving FEMA to the newly-created Department.

Cong. DeLauro: Let me ask a question with regard to FEMA. You've recommended keeping FEMA as a separate agency but would coordinate with a DHS in the event of a terrorist attack. How do you think that moving FEMA into the Department of Homeland Security would affect our ability to respond to hurricanes, other natural disasters, and how do you envision the FEMA-DHS coordination being carried out?

Cong. Oberstar: FEMA started out as the civil defense agency. ... And then moved into, as the Cold War wound down, assuming broader responsibilities as our nation's premier disasters assistance and response agency. *To move it into this new Department of Homeland Security without a clearly defined homeland security role is, in my judgment, a mistake. We have not seen a delineation of what is homeland security compared to response to floods, hurricanes, blizzards, earthquakes, tornadoes. You know, when your home is underwater up to the eaves are you going to wonder, where is FEMA? Are they on some mission looking for terrorists or are they going to be on a mission looking for your lost children and rescuing you from the rooftop of your home?* [emphasis added].

The bill I introduce today will help FEMA get back on track. By establishing FEMA as a cabinet-level independent agency in the executive branch, the bill ensures that FEMA is not trapped in a massive department in which the Director of FEMA must work through levels of bureaucracy before taking appropriate action.

In Committee hearings held in October 2005, emergency management officials from across the Nation testified that they believed FEMA needs to be moved out of DHS in order for it to function effectively. The Transportation and Infrastructure Committee plans additional hearings early next year to discuss the direction of FEMA and how to improve our preparedness and response to major disasters. I hope that Secretary Chertoff, the Secretary of the Department of Homeland Security, will respond favorably to the Committee's request to testify at one of these hearings.

Mr. Speaker, I believe that this bill will begin the process of restoring FEMA as a first-class agency able to prepare for, respond to, and recover from both natural and man-made disasters. On September 6, 2005, when Congress returned from the August recess, Congresswoman Norton, the Ranking Democratic Member of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, and I introduced H.R. 3659, a bill to move FEMA out of the Department of Homeland Security and reestablish its independence. This bill builds upon H.R. 3659 by strengthening the qualifications for the FEMA Director and establishing the position of Deputy Director, who is to serve as a liaison to the Department of Homeland Security in the event of an act of terrorism, and act for the Director when the Director is absent, unable to serve, or

when the position of the Director is vacant. The bill also includes those provisions to provide for the transfer of personnel and appropriations which are necessary to establish a separate, independent agency. A section by section explanation of the bill is set forth below.

I urge Congress to consider this legislation early in the coming year.

**SECTION BY SECTION OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY
RESTORATION ACT**

Section 1. Short Title. This section establishes the short title for the Federal Emergency Management Agency Restoration Act.

Section 2. Federal Emergency Management Agency. This section establishes the Federal Emergency Management Agency (FEMA) as a cabinet-level independent agency in the executive branch. The section sets forth that FEMA is responsible for emergency preparedness, response, recovery, and mitigation for all hazards, including major disasters, acts of terrorism, and other emergencies. For purposes of the Act, “emergency preparedness” does not include law enforcement efforts to prevent or deter terrorism, protect critical infrastructure, and conduct intelligence activities.

The section establishes qualifications for the FEMA Director. It states that the Director of FEMA shall be appointed by the President, with the advice and consent of the Senate, from among persons who have extensive experience in emergency preparedness,

response, recovery and mitigation for all hazards, including major disasters, acts of terrorism, and other emergencies. The section also prescribes a five-year term of office for the Director.

The section establishes a Deputy Director, appointed from the competitive service, and sets for the criteria for the Deputy Director. The section also sets forth the duties of the Deputy Director and authorizes the Deputy Director to serve as a liaison to the Department of Homeland Security in the event of an act of terrorism, and to act for the Director when the Director is absent, unable to serve, or when the position of the Director is vacant.

Section 3. Transfer of Functions. This section sets forth the functions and personnel to be transferred to an independent FEMA. The section also provides for the transfer of FEMA within 120 days of the date of enactment.

Section 4. Savings Provisions. This section sets forth various technical provisions to establish an independent FEMA with the authorities necessary to function as an independent agency and provides for the transfer of personnel and appropriations.